IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 15690 -M of 2007.
Date of Decision: April 24, 2007.

Dinesh

....**Petitioner**

through
Mr. N.K.Sanghi, Advocate

Versus

State of Haryana .

...**Respondent**
through
Mr. Tarun Aggarwal, Sr. DAG, Haryana.

CORAM:

HON'BLE MR. JUSTICE SURYA KANT.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT,J.(ORAL)

The prayer in this petition is to release the petitioner on regular bail in FIR No. 2 dated 1.1.2007, under Section 15 of the N.D.P.S.Act, registered at Police Station, Sadar Sirsa.

As per the allegations contained in the FIR, the petitioner was sitting on the rear seat of the jeep in which two gunny bags containing poppy husk were lying. These bags were found containing poppy husk weighing 40 kgs.

The petitioner was apprehended at the spot and is in custody since then.

The debatable question raised on behalf of the petitioner is that admittedly he was neither owner nor driver of the jeep and was sitting as a passenger only. It is, thus, claimed that the petitioner

being not in knowledge of what was allegedly lying in the gunny bags, the ingredient of “conscious possession” can not be said to have been satisfied.

It is obvious that if the petitioner was not in 'conscious possession' of the contraband, rigors of Section 37 of the Act shall also be not attracted.

The prosecution evidence is yet to commence and since it proposes to examine ten witnesses, conclusion of the trial is likely to take considerably long period.

On a specific query by the Court raised vide order dated 16.4.2007, it is stated by learned State Counsel, on instructions from ASI Ram Kumar, that no other case under the NDPS Act has been registered and/or pending against the petitioner.

After hearing learned counsel for the parties and without going into the merits of the case, lest it should prejudice either of the parties, this petition is allowed and the petitioner is directed to be released on bail to the satisfaction of the Chief Judicial Magistrate, Sirsa.

Disposed of.

April 24, 2007. **(SURYA KANT)**
dinesh **JUDGE**